

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**February 20, 2018**

Sheila T. Reiff  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2017AP309**

**Cir. Ct. No. 2015SC34103**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**CARLTON A. JACKSON,**

**PLAINTIFF-APPELLANT,**

**V.**

**INA G. JACKSON,**

**DEFENDANT-RESPONDENT.**

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APPEAL from an order of the circuit court for Milwaukee County:  
ELLEN R. BROSTROM, Judge. *Affirmed.*

¶1 BRENNAN, P.J.<sup>1</sup> Carlton A. Jackson appeals from an order dismissing with prejudice his small claims action against Ina G. Jackson. The order further prohibited him from filing any further civil action related to the

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(e)(2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

estate of the parties' mother "other than a meritorious motion in 2014PR1256," the relevant probate case. We affirm.

## BACKGROUND

¶2 Mearlean L. Jackson, the mother of Carlton and Ina, died in 2014. Her will was filed in probate court July 31, 2014, in Milwaukee County Case No. 2014PR1256. [per CCAP docket] Ina was named the personal representative of the estate. Carlton is an heir and therefore was an interested person under WIS. STAT. § 851.21(a); however, he never filed a demand for formal proceedings in probate court to resolve disputes about the estate. *See* WIS. STAT. § 865.03(1) ("Formal proceedings, either as to a particular issue or as to the entire subsequent administration of the estate, may be initiated by the personal representative or by any interested person at any time by a written demand therefor.") Rather, based on various disputed matters related to the estate, he sought an injunction against Ina and filed two additional civil cases against her.<sup>2</sup>

¶3 The injunction was denied and the other cases were dismissed. Carlton was denied the relief he sought on the grounds that the matters he was disputing are properly decided in probate court, not small claims court. Court officials told Carlton on August 5, 2014, February 16, 2015, and July 2, 2015, that the matter belongs in probate court, denying and dismissing each previous action on that basis.

¶4 Carlton nevertheless brought this small claims action against Ina on December 23, 2015, alleging that Ina had "refused to comply" with demands he

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<sup>2</sup> Milwaukee County Case Nos. 2014CV6274, 2015SC2520, and 2014SC19651. The circuit court, in the order in this case, noted that it had ordered and reviewed the transcripts for the prior cases Carlton had filed against Ina.

had made for payments from the estate. He sought damages of \$9,810.12 to cover “property taxes, property repairs, water works billing and past due utility [expenses]” that he alleged Ina had refused to pay on behalf of the estate on December 10, 2014.

¶5 At a contested hearing on March 24, 2016, a court commissioner ruled in favor of Ina. Carlton requested a trial before a judge, and a trial was held September 28 and November 16, 2016. Both parties testified.

¶6 The circuit court ruled that the judgment of dismissal in Milwaukee County Case No. 2014SC19651 is dispositive of this case under the doctrine of claim preclusion. It further held that this case was “filed in bad faith” and is “frivolous.” The circuit court barred Carlton from “filing any future action related to the estate of the parties’ mother, other than a meritorious motion in 2014PR1256[.]”

¶7 Carlton appeals.

## DISCUSSION

### I. Standard of review.

¶8 “Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses.” WIS. STAT. § 805.17(2).

¶9 Under the doctrine of *res judicata* or claim preclusion, “a final judgment is conclusive in all subsequent actions between the same parties [or their privies] as to all matters which were litigated or which might have been litigated in the former proceedings.” *Lindas v. Cady*, 183 Wis. 2d 547, 558, 515 N.W.2d 458

(1994) (citation omitted). Claim preclusion is “designed to draw a line between the meritorious claim on the one hand and the vexatious, repetitious and needless claim on the other hand.” *Purter v. Heckler*, 771 F.2d 682, 689-90 (3rd Cir. 1985). “The question of whether claim preclusion applies under a given factual scenario is a question of law that this court reviews *de novo*.” *Northern States Power Co. v. Bugher*, 189 Wis. 2d 541, 551, 525 N.W.2d 723 (1995).

## II. This action is barred by claim preclusion.

¶10 The circuit court concluded as a matter of law that the doctrine of claim preclusion barred this action. The circuit court concluded that the prior litigation in 2014SC19651 involved the same parties and the same matter. It concluded that the judgment of dismissal in that case on the basis that the matter belongs in probate court was therefore conclusive of all matters.

¶11 Carlton argues that “[t]he judge’s reviewing of past cases involving both parties ... and the judge’s order of the transcripts ... supports how many and how heavy the bias[ed] decisions and errors occurred.” We understand Carlton to be arguing that the circuit court erred in considering the transcripts of the prior civil actions between these parties. Carlton is incorrect. That consideration was appropriate and necessary for a determination of whether the doctrine of claim preclusion applies to this action. Carlton has failed to raise any legal arguments and has failed to cite any statute or case to the contrary. “[*Pro se* litigants] are bound by the same rules that apply to attorneys on appeal.” *Waushara County v. Graf*, 166 Wis. 2d 442, 452, 480 N.W.2d 16 (1992); *see also Holz v. Busy Bees Contracting, Inc.*, 223 Wis. 2d 598, 608-09, 589 N.W.2d 633 (Ct. App. 1998) (at a minimum, *pro se* appellant must show factual or legal basis for undoing trial court’s findings).

¶12 We adopt and reiterate the trial court’s findings of fact, which Carlton has not shown to be clearly erroneous. *See* WIS. STAT. § 805.17(2). The findings are all supported by the record.<sup>3</sup> The circuit court properly concluded that claim preclusion barred this action because Carlton brought these claims against the same party he sued in 2014SC19651, and these claims either were litigated or could have been litigated in that action.

**III. The circuit court properly barred Carlton from further civil suits related to the estate unless they are brought in the proper forum.**

¶13 The circuit court ruled that this case had been “a deleterious waste of precious judicial resources, as well as of the time and energy of [Ina] Jackson.” The circuit court barred Carlton from filing any future action related to Mearlean Jackson’s estate “other than a meritorious motion in 2014PR1256[.]” Carlton made no arguments concerning this portion of the order in his appellate brief. Where a notice of appeal indicates that appellant appeals a ruling but appellant fails to brief the issue, we deem it abandoned. *Reiman Assocs., Inc. v. R/A Advert., Inc.*, 102 Wis. 2d 305, 306 n.1, 306 N.W.2d 292 (Ct. App. 1981). We therefore affirm the order.

*By the Court.*—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

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<sup>3</sup> The order of dismissal indicates that the circuit court obtained and reviewed transcripts from the hearings in each of the three cases Carlton filed previously. Although Carlton did not make those transcripts a part of the record, we assume they support the decision. *See Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993) (the appellant must assure a complete record for the issues on review, and missing material is assumed to support the circuit court’s decision).

